

EXHIBIT 3

Department of Defense Plan for Use of Excess
Construction Materials on Southwest Border
(March 2024)



DEPARTMENT OF DEFENSE PLAN FOR USE OF EXCESS CONSTRUCTION MATERIALS ON SOUTHWEST BORDER

AS REQUIRED BY

**SECTION 2890
NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2024**

MARCH 2024

The estimated cost of this report or study for the Department of Defense is approximately \$43,130 for the 2024 Fiscal Year. This includes \$130 in expenses and \$43,000 in DoD labor.

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Section 2890 of the National Defense Authorization Act for Fiscal Year 2024 (FY2024 NDAA, Reference a.) requires the Department of Defense (DoD) to submit a plan “to use, transfer, or donate to States on the southern border of the United States all ‘covered materials,’ with prioritization given to the refurbishment and or maintenance of ports of entry along the southwest border and construction projects aimed at stopping illicit human and vehicle traffic along the border of the United States with Mexico.” Per section 2890, the term “covered materials” means “[a]ll remaining construction materials currently possessed by the United States Government that were purchased under section 2808 and 284 of title 10, United States Code, from fiscal years 2017 through 2021, including bollards [bollard panels] and Nucor tubular square structural tubes.” The following is the Department’s section 2890 plan.

Except as otherwise provided in section 2890, the Department will use, transfer, or donate covered materials through implementation of existing policies and processes governing the disposition of excess and surplus materials. Those policies and processes are set forth in Department of Defense Manual (DoDM) 4160.21, Volumes 1-4, “Defense Material Disposition: Disposal Guidance and Procedures,” October 22, 2015, Incorporating Change 4, August 31, 2022, and Part 102 of Title 41, Code of Federal Regulations (CFR), also known as the Federal Management Regulation (FMR) (References b. and c.). The process, outlined below in Table 1, contemplates the completion of a DoD exclusive internal screening cycle, a “special programs” screening cycle, and federal agencies screening cycle prior to the transfer of items outside of the federal government.

Screening is accomplished through on-line databases. The Defense Logistics Agency (DLA) manages the database for DoD entities and special programs to screen property through a system known as “RTD Web.” The acronym “RTD” stands for “Reutilization, Transfer and Donation.” After DoD and special program customers screen the property in days 1-14 of the cycle in Table 1 below, the property is electronically transferred to the General Services Administration (GSA) database known as the “Personal Property Management System (PPMS),” which allows other federal agencies and donation customers, including all participating State and local governments, to view and request property. Customers are able to view property during the “Screening Period” and may request property during the “Issuing Period.” As shown in Table 1 below, authorized GSA donees, including the states on the southern border of the United States, may begin to view “covered material” property on the fifteenth day of the process and may begin to request the property on the thirty-sixth day of the process.

Table 1. Summary of Screening and Issue Timelines in Order of Issue Priority

RTD Method	Eligibility	Screening Period	Issuing Period
Reutilization	DoD	Days 1-14	Days 1-42
Reutilization	Special Programs	Days 1-14	Days 15-42
Transfer	All Federal Agencies	Days 15-35	Days 15-42
Donation	Authorized GSA Donees	Days 15-35	Days 36-42
Last Chance	All RTD Customers	Days 41-42	Days 41-42
Sale	General Public	N/A	N/A

Element 1- Disposition process for covered materials.

1. No later than 25 days after submission of this plan, the U.S. Army Corps of Engineers (USACE) will declare covered material excess by completing all turn-in documentation required to transfer the property to DLA Disposition Services in order to enable the start of the on-line screening process noted in Table 1 above.
2. All covered material will remain at the current USACE locations, including contractor locations, as it goes through the disposition process. USACE will ensure adequate contract coverage to enable storage throughout the disposition process and allow for receipt of covered materials to be transferred direct from contractor locations.
3. DLA Disposition Services receipt-in-place (RIP) processes will be used, which allow DLA to screen and allocate property at current locations, rather than requiring interim transportation of the covered material to DLA field sites. RIP processes promote economy and efficiency for the disposition of the covered materials. To the maximum extent practicable, USACE will prioritize RIP to facilitate disposal of covered materials stored on contractor lands to expedite contract close out actions.
4. DLA Disposition Services will request the GSA, when adjudicating requests during the donation stage of the screening cycle, prioritize “the refurbishment and or maintenance of ports of entry along the southwest border and construction projects aimed at stopping illicit human and vehicle traffic along the border of the United States with Mexico.”
5. DLA Disposition Services will request GSA, prior to GSA’s donation of covered materials, to require any State requesting the covered materials “to certify, in writing, that the materials it accepts will be exclusively used for the refurbishment or maintenance of ports of entry along the southwest border or construction projects aimed at stopping illicit human and vehicle traffic along the border of the United States with Mexico.”
6. If any covered material is not used, transferred, or donated to States on the southern border, the Department will follow the policies and processes in References b. and c. to continue managing the disposition of covered materials. This will include offering material for sale to the general public and, if property cannot be sold through that process, funding a disposal service contract to have covered material removed.

Element 2- An assessment of the condition of such materials being stored.

1. USACE has determined that the covered material remaining is generally in good condition. USACE does not believe that there is any applicable “depreciation” of covered material assets, as that term is used in section 2890, as the covered material assets are fully usable for the same or similar purpose for which the United States acquired them and which section 2890 contemplates.
2. DLA has reviewed the covered material remaining in its possession and identified that the material is in serviceable condition with no appearance of depreciation.

References

- a. Section 2890, P.L. 118-31, H.R. 2670, the “National Defense Authorization Act (NDAA) for Fiscal Year 2024.
- b. Department of Defense Manual (DoDM) 4160.21, Volumes 1-4, “Defense Material Disposition: Disposal Guidance and Procedures,” October 22, 2015, Incorporating Change 4, August 31, 2022.
- c. Part 102 of Title 41, Code of Federal Regulations (CFR), also known as the Federal Management Regulation (FMR).